

SURREBUTTAL TESTIMONY AND EXHIBIT**OF****ROBERT A. LAWYER****ON BEHALF OF****THE SOUTH CAROLINA OFFICE OF REGULATORY STAFF****DOCKET NO. 2020-264-E****DOCKET NO. 2020-265-E****IN RE: JOINT APPLICATION OF DUKE ENERGY CAROLINAS, LLC AND****DUKE ENERGY PROGRESS, LLC FOR APPROVAL OF SOLAR CHOICE****METERING TARIFFS PURSUANT TO S.C. CODE ANN. SECTION 58-40-20****Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND OCCUPATION.**

A. My name is Robert A. Lawyer. My business address is 1401 Main Street, Suite 900, Columbia, South Carolina 29201. I am employed by the State of South Carolina as Deputy Director of Energy Efficiency and Renewables in the Utility Rates and Services Division of the Office of Regulatory Staff ("ORS").

Q. DID YOU PREVIOUSLY FILE DIRECT TESTIMONY IN THIS PROCEEDING?

A. Yes. I previously provided Direct Testimony on February 8, 2021 related to the Solar Choice Metering Tariffs proposed by Duke Energy Carolinas, LLC ("DEC") and Duke Energy Progress, LLC ("DEP" and together with DEC, "Duke" or the "Companies") in compliance with S.C. Code Ann. § 58-40-20 of the South Carolina Energy Freedom Act ("Act 62").

Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?

A. The purpose of my surrebuttal testimony is to respond to the rebuttal testimony of Duke witnesses Leigh Ford, Bradley Harris, and Lon Huber, and to the rebuttal testimony of Edward Finley sponsored by the South Carolina Coastal Conservation League (“CCL”), Southern Alliance for Clean Energy (“SACE”) and Upstate Forever (collectively known as “Advocates”). Specifically, my surrebuttal testimony will focus on the aspects of the rebuttal testimony of Duke and the Advocates that address:

1) Transparency in this Commission proceeding; and

2) ORS's representation of the "public interest" as defined by S.C. Ann. § 58-4-10 (B).

TRANSPARENCY

Q. DO DUKE WITNESSES FORD, HARRIS AND HUBER ACCURATELY CHARACTERIZE ORS’S CONCERNS WITH THE LANGUAGE CONTAINED IN THE BINDING AGREEMENTS OF THE MEMORANDUM OF UNDERSTANDING (“MOU”) FILED ON DECEMBER 4, 2020 BY THE NORTH CAROLINA SUSTAINABLE ENERGY ASSOCIATION (“NCSEA”) AND SOLAR ENERGY INDUSTRIES ASSOCIATION (“SEIA”)?

A. No. Duke witnesses Ford, Harris and Huber mischaracterize ORS’s concern about certain Binding Agreements within the MOU as “serious allegations” that “discredit the Companies.” Let me be clear, ORS does not assert or allege that the Companies have acted in any manner less than transparent.

Pursuant to ORS’s careful review of the Stipulation and MOU, ORS raised several concerns to the Public Service Commission of South Carolina (“Commission”) related to the language in the MOU agreed upon by Duke, North Carolina Sustainable Energy Association (“NCSEA”), Solar Energy Industries Association (“SEIA”), the Advocates,

1 Sunrun, Inc., and Vote Solar (“MOU Signatories”). *See* Surrebuttal Exhibit RAL-1.
2 Specifically, ORS witness Horii’s direct testimony (page 26, lines 3-21) expressed concern
3 with the MOU Binding Agreement #1 which states:

4 All Parties will support and advocate for the approval of the proposed
5 resolution described in this MOU before media, stakeholders, social media
6 outlets, the PSCSC, Office of Regulatory Staff, NCUC, and Public Staff.
7 (emphasis added).¹

8 It is clear that the MOU’s Signatories are obligated to support and advocate for the approval
9 of the MOU, and that none of the MOU’s Signatories have an obligation to represent the
10 public interest as defined by S.C. Code Ann. § 58-4-10 (B). The MOU contains no language
11 in which the MOU’s Signatories purport to act in the public interest. In fact, despite the
12 assertion in the Stipulation (Page 6, Section C.1), which was signed by Duke, the
13 Advocates, NCSEA, and Vote Solar (“Stipulating Parties”) and states, “[t]he Stipulating
14 Parties agree that this Stipulation is...in the public interest...” there is no doubt that ORS
15 is the sole entity in this proceeding tasked and trusted by the South Carolina General
16 Assembly to represent and advocate for the public interest before this Commission.
17 Moreover, every other entity participating in this proceeding was created to represent only
18 the interests of that respective entity. Accordingly, ORS appropriately raised the concern
19 that the MOU’s Signatories may be obligated to provide only testimony that is most
20 favorable to the Stipulation.

21 **Q. DID THE COMPANIES PRESENT THE MOU TO THE COMMISSION FOR ITS**
22 **APPROVAL?**

¹ Surrebuttal Exhibit RAL-1, page 8.

1 **A.** No. The MOU was filed with the Commission on December 4, 2020, by NCSEA
2 and SEIA as an attachment to a letter expressing conditional support for the Stipulation.²
3 The Stipulation presented to the Commission by the Companies contains Sections B.13
4 and B.14, which broadly discuss other “commitments to address additional items within
5 Act 62”³ to be undertaken by the Stipulating Parties after the Commission issues a final
6 order in the instant proceedings. NCSEA and SEIA characterize the Stipulation as “[a]
7 portion of the necessary approvals that are part of a broader agreement which combines
8 multiple concepts in creating a future for solar choice in South Carolina.”⁴ The MOU is
9 characterized by NCSEA and SEIA as “[t]he more formal expression of the agreement”
10 between the Stipulating Parties. Accordingly, it appears neither the Companies, NCSEA
11 nor SEIA have requested the Commission approve the MOU.

12 **ORS REPRESENTATION OF THE PUBLIC INTEREST**

13 **Q. WHAT IS ORS’S POSITION REGARDING THE RATES AND TARIFFS**
14 **OUTLINED IN THE STIPULATION AND AS STATED IN THE REBUTTAL**
15 **TESTIMONY OF WITNESS FINLEY (PAGE 1)?**

16 **A.** ORS’s direct testimony identified that a substantial cost shift will remain with the
17 Permanent Tariffs and the Interim Riders are too generous toward customer-generators, if
18 the Stipulation is approved. In fact, the ORS findings identify that the cost shift to
19 customers is understated through the Stipulation rates and tariffs. ORS offers
20 recommendations to correctly calculate and eliminate the cost shift such that the

² Surrebuttal Exhibit RAL-1, page 6.

³ Stipulation, pages 5 and 6.

⁴ Surrebuttal Exhibit RAL-1, page 1.

Commission has an accurate foundation for its determination of the Companies' Solar Choice Metering Tariffs.

Q. WITNESS FINLEY'S REBUTTAL DISCUSSES IN DETAIL HOW THE COMMISSION MAY NAVIGATE THE COMPETING POLICY DIRECTIVES OF ACT 62. DO YOU AGREE WITH WITNESS FINLEY'S GUIDANCE TO THE COMMISSION?

A. I generally agree with Witness Finley's rebuttal testimony regarding general rate making principles, cost causation and the use of rate design to balance competing policy objectives. Witness Finley correctly identifies the challenges of allocating costs to reduce subsidies and that differing econometric models exist to measure cost of service and allocate the cost of service to customers. ORS witness Horii provides the Commission with the tools to determine a zero cost shift, which is an important data point.

Q. PLEASE ADDRESS THE CRITIQUES FROM DUKE AND THE ADVOCATES THAT ORS DID NOT PROVIDE ANALYSIS OR RECOMMENDATIONS TO THE COMMISSION THAT ADDRESS ALL ASPECTS OF SECTION 58-40-20 (A).

A. As stated in my direct testimony, ORS has a statutory duty to represent the public interest as defined by the General Assembly in S.C. Code Ann. § 58-4-10. ORS offers the Commission valuable recommendations to quantify the cost shift impacting customers under current net energy metering ("NEM") tariffs as well as the cost shift that will result if the proposed Solar Choice Metering Tariffs are adopted. The ORS analysis is necessary.

The importance of eliminating any cost shift or subsidization associated with the Solar Choice Metering Tariffs to the greatest extent practicable cannot be stressed enough and fully aligns with ORS's mission in protecting non-participating customers from undue

1 cost burdens shifted from customer-generators. The Companies' non-participating
2 customers have no choice but to take electricity from the utility and many have no choice
3 to install solar facilities. Additionally, many of the Companies' customers may have
4 weighed the risks and rewards of solar installations and decided that the rewards do not
5 outweigh the risks. In contrast, each customer of the Companies that elected to install solar
6 facilities did so after weighing the risks and rewards unique to their own situation. As a
7 result, advocating for the public interest dictates that ORS must evaluate any cost shift and
8 seek to eliminate it to the greatest extent practicable on the Companies' customers that
9 decided not to reap the risks or rewards of a solar facility. To do so otherwise, contravenes
10 the public interest and the principles that dictate each customer is in the best position to
11 evaluate the risks and rewards to their own unique position. Cost shift impacts were
12 important when solar was a nascent industry and cost shift impacts remain important now.

13 **Q. IN THE EVENT THE COMMISSION FINDS THE STIPULATION MEETS THE**
14 **REQUIREMENTS OF ACT 62, DOES ORS HAVE ADDITIONAL**
15 **RECOMMENDATIONS TO FURTHER PROTECT THE CONSUMING PUBLIC?**

16 **A.** Yes. ORS recommends the Companies be required to track and report to the
17 Commission the cost shift based on the avoided cost for solar customer-generators
18 subscribing to the Interim Riders and the proposed Solar Choice Metering Tariffs. The cost
19 shift tracking and reporting can be accomplished in the same manner as the Companies
20 currently perform for the current NEM tariffs. However, the calculations would incorporate
21 the value of solar as determined in Docket No. 2019-182-E for the Companies. The
22 additional tracking and reporting by the Companies will incorporate the updated value of
23 solar and can help to inform future updates to the Solar Choice Metering Tariffs. ORS

1 recommends the Companies provide this tracking and reporting on an annual basis in
2 Docket Nos. 2020-264-E and 2020-265-E. ORS also reserves the right to review and make
3 recommendations on all cost shift impacts in any future general rate case proceeding for
4 the Companies.

5 **Q. WILL YOU UPDATE YOUR SURREBUTTAL TESTIMONY BASED ON**
6 **INFORMATION THAT BECOMES AVAILABLE?**

7 **A.** Yes. ORS fully reserves the right to revise its recommendations via supplemental
8 testimony should new information not previously provided by the Company, or other
9 sources, becomes available.

10 **Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?**

11 **A.** Yes.



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The September MOU was the product of negotiations between all signing parties and represents a comprehensive policy solution for moving customer-sited solar forward in South Carolina, and is in alignment with statutory requirements from Act 62. Specifically, the September MOU addresses Solar Choice as described in S.C. Code Ann. § 58-40-20 and electrical utility customer rights as addressed in S.C. Code Ann. § 58-27-845.¹

Duke's application in the above dockets, and its submitted November Stipulation, are an important step in effectuating the September MOU, and we urge the Commission to examine the full intent and content of the September MOU, which includes interconnected provisions meant to be considered as a whole.

In other words, in the instant proceedings, Duke is seeking approval for one aspect of the September MOU, which addresses rate design for customer-sited solar. The September MOU includes additional provisions which Duke plans to address in future dockets, notably an energy efficiency incentive program for customer-sited solar that is paired with a smart thermostat ("Solar BYOT EE Incentive"). The relationship between the proposed Solar Choice rates and the agreed upon Solar BYOT EE Incentive was explicitly acknowledged by the parties in the MOU, which states:

The Companies would propose incentives (the "Incentives") *in conjunction* with the Permanent Solar Choice Tariffs to the PSCSC and the NCUC upon the terms and conditions on Exhibit C.²

Additionally:

The Parties would vigorously advocate for the TOU rate *as a combined offering* which complies with Act 62, and would work in good faith to ensure that the details of the *combined offering submitted to the PSCSC* and the NCUC complies with the requirements of Act 62 and supportive of advancement of these options in accordance with North Carolina law. Furthermore, the Parties recognize that their support of the proposed resolution is based on the *interlocking components of the entire proposal*

¹ See General Assembly in S.C. Code Ann. § 58-27-845(B) (providing "[e]very customer of an electrical utility has the right to a rate schedule that offers the customer a reasonable opportunity to employ such energy and cost saving measures as energy efficiency, demand response, or onsite distributed energy resources in order to reduce consumption of electricity from the electrical utility's grid and to reduce



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and that if the PSCSC or the NCUC rejects any one aspect of the proposed resolution, then it may require renegotiation of other aspects of the proposed resolution.³

Given that total agreement is reliant upon the Solar BYOT EE Incentive, we believe it is important to continue to highlight that the entire agreement reflected in the September MOU, including the Solar BYOT EE Incentive, is essential for the economic viability of customer-sited solar in South Carolina and compliant with the directives laid out in Act 62. The September MOU builds upon EE measures approved by the Commission and pending enhancements.⁴ As such, NCSEA and SEIA support the November Stipulation but emphasize that this support is contingent upon the Commission approving the Solar BYOT EE Incentive as described in the September MOU.

When taken together, NCSEA and SEIA believe that the rate design proposed in the instant docket coupled with the Solar BYOT EE Incentive as described in the September MOU create a fair structure for residential customer-sited solar. The two sets of policies further address peak demand and reduce total system costs, creating benefits for Duke and for all consumers. To be clear, the rate design component for which Duke seeks approval in the instant proceedings is an important element of the comprehensive Solar Choice Tariff program negotiated between the parties of the September MOU, but it is not the *only* part. Critically, the rate design aspect by itself is only part of the September MOU, and only when taken as a whole would it benefit all South Carolina stakeholders. NCSEA and SEIA support an outcome where the remaining aspects of the September MOU are approved – whether in this proceeding or in subsequent, contingent proceedings. All parties to the September MOU and November Stipulation are committed to working together across those dockets for the benefit of the solar industries, clean energy advocates and all ratepayers.

However, as reflected in the September MOU, NCSEA and SEIA would not support an outcome where the Commission approves those aspects of the September MOU included in the November Stipulation but does not approve – whether in this proceeding or in subsequent contingent proceedings – the Solar BYOT EE Incentive and other aspects of the September MOU.



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While NCSEA and SEIA contingently support the November Stipulation, the Commission should be aware that it is only one piece of a larger policy package, and that the provisions of the November Stipulation only advance residential solar when they are paired with the remaining aspects of the September MOU. We look forward to engaging as intervenors in this proceeding.

Respectfully yours,

/s/ Peter H. Ledford

On Behalf of the North Carolina Sustainable Energy Association

/s/ Sean Gallagher



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MEMORANDUM OF UNDERSTANDING

This **MEMORANDUM OF UNDERSTANDING** (this “MOU”) is made as of September 16, 2020 (the “Effective Date”), by and among Duke Energy Carolinas, LLC (“DEC”); Duke Energy Progress, LLC (“DEP” and together with DEC, the “Companies”); North Carolina Sustainable Energy Association; Southern Environmental Law Center on behalf of South Carolina Coastal Conservation League, Southern Alliance for Clean Energy, and Upstate Forever; Sunrun Inc.; and Vote Solar (collectively, “Clean Energy Advocates”) (the Clean Energy Advocates together with the Companies are referred to as the “Parties” and individually as a “Party”).

Background: S.C. Act No. 62 of 2019 (“Act 62”) requires the Public Service Commission of South Carolina (the “PSCSC”) to approve requirements for a new net energy metering (“NEM”) program in South Carolina (the “Solar Choice Program”). The Companies are required to submit to the PSCSC proposed tariffs for both residential and non-residential customers under the Solar Choice Program (each such tariff, a “Solar Choice Tariff”).

The Parties have worked in good-faith to develop a common set of terms to (i) advance the next generation of NEM under Act 62, (ii) provide customers an opportunity to manage demand and reduce strain on the power grid, and (iii) ensure a better energy future in North Carolina and South Carolina. The Parties describe herein the proposed, comprehensive resolution of issues related to the Solar Choice Tariffs.

The Parties intend to work collaboratively to advance the terms of this MOU, including engaging other stakeholders on this matter in advance of filing the Solar Choice Tariffs in South Carolina and to obtain the PSCSC and the North Carolina Utilities Commission (“NCUC”) approvals necessary to effectuate this MOU. The Parties ultimately desire to avoid a contentious adversarial proceeding before the PSCSC or the NCUC by collaborating to implement the Solar Choice Tariffs within the spirit of Act 62 and North Carolina law.

This MOU sets forth certain non-binding understandings and certain binding agreements among the Parties intended to cooperatively advance the Solar Choice Program. Except as expressly set forth in the section of this MOU titled “Binding Agreements,” nothing in this MOU constitutes a legally binding agreement of the Parties.

NON-BINDING UNDERSTANDINGS

The following paragraphs numbered 1 through 5 in this non-binding understandings section do not constitute legally binding agreements of any Party.

1. The Companies would propose interim Solar Choice Tariffs (the “Interim Solar Choice Tariffs”) to the PSCSC upon the terms and conditions on Exhibit A. The Interim Solar Choice Tariffs would be available for customers submitting applications for the Solar Choice Program from June 1, 2021, through and including December 31, 2021.

2. The Companies would propose permanent Solar Choice Tariffs (the “Permanent Solar Choice Tariffs”) to the PSCSC upon the terms and conditions on Exhibit B. The Permanent

Solar Choice Tariffs would be available to customers submitting applications for the Solar Choice Program after December 31, 2021.

3. The Companies would propose incentives (the “Incentives”) in conjunction with the Permanent Solar Choice Tariffs to the PSCSC and the NCUC upon the terms and conditions on Exhibit C.

4. The Parties would also undertake the following:

- a. The Companies would explore a Solar Choice program tailored to low-income customers as a potential future energy efficiency (“EE”) or demand response program, in consultation with stakeholders.
- b. The Parties would review and provide feedback on the Companies’ marketing materials and disclosures for customers to ensure customer communications are transparent and understandable, and that customers are educated on the Solar Choice Tariffs and Incentives, including the mechanics of the rate structure therein.
- c. The Companies agree to be included in a list of supporters for efforts in South Carolina to pass a residential property tax exemption via budget proviso or standalone legislation in the 2021 legislative session. This does not obligate the Companies to lobby for or otherwise explain the rationale for such exemption to legislators or policy makers. This support is only available if no new net metering-related legislation by efforts of the Parties is pending when the property tax exemption is proposed. In addition, the Companies shall have the right to review and approve any written documents that list it as a supporter.
- d. The Parties would support the classification of the Companies’ costs to pursue and effectuate the proposed resolution described in this MOU as appropriate for deferral and recovery consistent with Sections 15 and 16 of Act 62.
- e. The Parties would support the proper collection of monthly avoided cost bill credits through the Fuel Clause.
- f. Under the proposed resolution, at the transfer year (2025 for NEM customers under Act 236 and 2029 Solar Choice Program customers under Act 62), existing NEM solar customers would be given the option to switch to the Permanent Solar Choice Tariffs. If the NEM solar customers elect not to be on that rate, they could stay on the standard residential tariff but any volumetric price increase after the transfer year would be placed in a non-bypassable charge based on their system size for the remaining life of the system, as well as be put on monthly netting. The existing NEM customer would also be assessed a minimum bill set at \$10 more than the Basic Facilities Charge (“BFC”) at that time. This minimum bill will be applied in the same manner as the Monthly Minimum Bill (“MMB”) in the Permanent Solar Choice Tariffs, in that it will recover customer and distribution

costs. The minimum bill charge is reduced by the Basic Facilities Charge (BFC) and the portion of the customer's monthly volumetric energy charges specific to customer and distribution costs.

5. **Interconnection.** The Companies and Sunrun Inc. intend to continue to work together to enhance and streamline NEM interconnection processes in South Carolina.

BINDING AGREEMENTS

The following paragraphs numbered 1 through 9 in this binding agreements section are the only binding agreements of the Parties in this MOU.

1. **Advocacy.** All Parties will support and advocate for the approval of the proposed resolution described in this MOU before media, stakeholders, social media outlets, the PSCSC, Office of Regulatory Staff, NCUC, and Public Staff. Regardless of whether the proposed resolution is approved by the PSCSC or the NCUC or both, no Party will publicly disparage the efforts of any other Party relating to the proposed resolution or this MOU.
2. **Media.** During ongoing negotiations and during subsequent stakeholder engagement (pre-filing or post-filing of NEM-related filings at the PSCSC or NCUC), the Parties agree to positively characterize each other's collaboration at public events and in the media (including social media) and will refer to this proposal as the next evolution of retail rate NEM and a major advancement to the solar industry and energy efficiency efforts in South Carolina and/or North Carolina. The Parties agree to cooperate in good faith and in support of all required approvals of this effort and each other on this matter until the time the PSCSC and the NCUC issue a final order.
3. **Joinder.** The Parties acknowledge and agree that additional entities (each, a "Joining Party") may, from time to time, execute a Joinder Agreement (a "Joinder") substantially in the form of Exhibit D to join the Parties' collaborative efforts under this MOU. The Parties further acknowledge that upon agreement by the Parties, execution of such a Joinder by DEC, DEP, and a Joining Party, such Joining Party shall be considered a "Party" hereunder without any further action on behalf of the other Parties.
4. **Governing Law.** This MOU shall be governed by the laws of the State of South Carolina, excluding its conflict of laws principles. Any claim or action arising out of or relating to this letter of intent shall be commenced and heard in the state and federal courts for Greenville County, South Carolina, and the Parties consent and submit to the jurisdiction and venue of those courts.
5. **Relationship between the Parties.** Nothing in this MOU shall be construed as creating a partnership, association or joint venture between or among any Parties. No Party shall have any power or authority to enter into any commitment on behalf of or otherwise bind any other on any matter. No employee of Party shall be deemed to be an employee of any other.
6. **No Assignment.** Neither this MOU, nor any rights or obligations hereunder, may be assigned, delegated, or conveyed by any Party without prior written consent of each other Party.

7. **No Third-Party Beneficiaries.** Nothing herein is intended or shall be construed to confer upon any person or entity other than the Parties and their respective successors and permitted assigns, any rights or remedies under or by reason of this MOU.
8. **Counterparts.** This MOU may be executed in any number of counterparts. Each counterpart shall constitute an original, and all such counterparts shall constitute one and the same agreement.
9. **Entire Agreement.** This binding agreements section is the entire agreement of the Parties relating to the subject matter herein and supersedes all prior agreements, understandings and negotiations regarding the same. This MOU may be amended only by a written agreement signed by all Parties.

The Parties execute this MOU as of the Effective Date.

DUKE ENERGY CAROLINAS, LLC

By: Heather Shirley Smith
Name: Heather Shirley Smith
Title: Deputy General Counsel

DUKE ENERGY PROGRESS, LLC

By: Heather Shirley Smith
Name: Heather Shirley Smith
Title: Deputy General Counsel

**NORTH CAROLINA SUSTAINABLE
ENERGY ASSOCIATION**

By: _____
Name:
Title:

**SOUTHERN ENVIRONMENTAL LAW
CENTER (on behalf of South Carolina
Coastal Conservation League, Southern
Alliance for Clean Energy, and Upstate
Forever)**

By: _____
Name:
Title:

SUNRUN INC.

By: _____
Name:
Title:

VOTE SOLAR

By: _____
Name:
Title:

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DUKE ENERGY CAROLINAS, LLC

By: _____
Name:
Title:

DUKE ENERGY PROGRESS, LLC

By: _____
Name:
Title:

**NORTH CAROLINA SUSTAINABLE
ENERGY ASSOCIATION**

By:  _____
Name: Peter H. Ledford
Title: General Counsel and Director of
Policy

**SOUTHERN ENVIRONMENTAL LAW
CENTER (on behalf of South Carolina
Coastal Conservation League, Southern
Alliance for Clean Energy, and Upstate
Forever)**

By: _____
Name:
Title:

SUNRUN INC.

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VOTE SOLAR

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Title:

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By: _____
Name:
Title:


DUKE ENERGY PROGRESS, LLC

By: _____
Name:
Title:

**NORTH CAROLINA SUSTAINABLE
ENERGY ASSOCIATION**

By: _____
Name:
Title:

**SOUTHERN ENVIRONMENTAL LAW
CENTER (on behalf of South Carolina
Coastal Conservation League, Southern
Alliance for Clean Energy, and Upstate
Forever)**

By:  _____
Name: David L. Neal
Title: Senior Attorney

By:  _____
Name: Katherine Lee
Title: Staff Attorney

SUNRUN INC.

By: _____
Name:
Title:

VOTE SOLAR

By: _____
Name:
Title:

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DUKE ENERGY CAROLINAS, LLC

By: _____
Name:
Title:

DUKE ENERGY PROGRESS, LLC

By: _____
Name:
Title:


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ENERGY ASSOCIATION**

By: _____
Name:
Title:

**SOUTHERN ENVIRONMENTAL LAW
CENTER (on behalf of South Carolina
Coastal Conservation League, Southern
Alliance for Clean Energy, and Upstate
Forever)**

By: _____
Name:
Title:

SUNRUN INC.

By: 
Name: Tyson Goringstead
Title: Director, Public Policy

VOTE SOLAR

By: _____
Name:
Title:

The Parties execute this MOU as of the Effective Date.

DUKE ENERGY CAROLINAS, LLC

By: _____
Name:
Title:

DUKE ENERGY PROGRESS, LLC

By: _____
Name:
Title:

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ENERGY ASSOCIATION**

By: _____
Name:
Title:

**SOUTHERN ENVIRONMENTAL LAW
CENTER (on behalf of South Carolina
Coastal Conservation League, Southern
Alliance for Clean Energy, and Upstate
Forever)**

By: _____
Name:
Title:

SUNRUN INC.

By: _____
Name:
Title:

VOTE SOLAR

By: Thadeus B. Culley
Name: Thadeus B. Culley
Title: Sr. Regional Director and Regulatory
Counsel, Vote Solar

Exhibit AProposed Resolution

Interim Solar Choice Tariffs for South Carolina Residential Customers

- In South Carolina, applications received from June 1, 2021, through and including December 31, 2021, all residential customers will remain on their existing rate schedule (e.g. RS, RES, R-TOUD, etc.) until May 31, 2029. These customers will be placed on a new net metering rider, which will include monthly netting with net excess energy credited at avoided cost (i.e. the new netting policy) and non-bypassable charges for costs not directly related to the provision of electric service for each applicant. This includes costs such as energy efficiency costs, cyber security costs, storm cost recovery and similar costs.
- This interim rate period is necessary for the Companies to continue to offer an option for customers to adopt solar while the Companies work to switch over to their new billing system to efficiently bill the new Permanent Solar Choice Tariffs effective January 1, 2022. NEM under the Interim Solar Choice Tariffs will be billed manually for applications received during that interim period.
- Customers under the Interim Solar Choice Tariffs will be allowed on this structure until May 31, 2029, at which point they will be given the option to switch to the Permanent Solar Choice Tariffs. If they elect not to be on the Permanent Solar Choice Tariffs, they can stay on the standard residential tariff but any volumetric price increase after their transfer year will be placed in a non-bypassable charge based on the estimated total solar energy production of their system size for the remaining life of the system. The solar customer will also be assessed a minimum bill set at \$10 more than the BFC at that time. This minimum bill will be applied in the same manner as the Monthly Minimum Bill (“MMB”) in the Permanent Solar Choice Tariffs, in that it will recover some portion of the Companies’ estimated customer and distribution costs. The minimum bill charge is reduced by the Basic Facilities Charge (BFC) and the portion of the customer’s monthly volumetric energy charges specific to customer and distribution costs.
- Between June 1, 2021, and December 31, 2021, there will be a monthly cap on solar applications of 1.2 MW for DEC and 300 kW for DEP per month. If the monthly cap is reached and a customer still wants to install solar under an Interim Solar Choice Tariff through 2029, the customer must withdraw its application and submit it again the next month, but there is no assurance that capacity will be available. There will not be a waiting list due to the acknowledged administrative burden. If there is no capacity available under the Interim Solar Choice Tariff at the end of the Interim Solar Choice Tariff period, the Parties will consider whether adjustments to the interconnection process are required to ensure the customer’s interconnection request is not prematurely withdrawn from the interconnection queue until the period of time when a Permanent Solar Choice Tariff is available and the customer will be placed on that tariff once it is available.

- The Interim Solar Choice Tariffs may be incorporated into the Permanent Solar Choice Tariff if the Companies determine this is prudent. This provision is relevant to the form of the Solar Choice Tariffs but will not change any of the policies or pricing.

Exhibit BProposed Resolution

South Carolina Permanent Solar Choice Tariffs

Residential Customer Generators

- The sole Permanent Solar Choice Tariff for residential solar PV customer generators is a Critical Peak Pricing (“CPP”) Time of Use (“TOU”) tariff and residential solar customer generators must receive service under this tariff (with the exception of the Interim Solar Choice Tariff outlined above). This rate schedule will only apply to partial requirements rooftop solar customers.

	Prices without Riders and before future fuel cost adjustments (c/kWh)	
	DEC SC	DEP SC
Peak	15.4444	16.140
Off-Peak	9.0270	9.805
Super-Off-Peak	6.2952	7.294
Critical Peak*	25	25

* Price for peak hours on up to 20 Company-designated Critical Price days per year

- TOU Periods (all times in Eastern Prevailing Time)
 - Annual On-peak period will be from 6:00 pm – 9:00 pm
 - Additional December-February On-peak from 6:00 am – 9:00 am
 - March-November Super Off-peak from 12:00 am – 6:00 am
- A Monthly Grid Access Fee (“GAF”) is intended to recover distribution costs of customers with system sizes greater than 15 kW-dc, which are larger than for the average customer. To design the GAF, the average maximum demand for customers with greater than 15 kW-dc systems was determined and applied the distribution unit cost to estimate the total distribution cost. The GAF was then set to the level that would recover this cost minus the portion already recovered in through the minimum bill. The GAF would be applied to the nameplate capacity in excess of 15 kW-dc. The GAF until the implementation of any future rate cases in DEC-SC or DEP-SC will be:
 - DEC GAF: \$5.86/kW - dc/month
 - DEP GAF: \$3.95/kW - dc/month
- Monthly Minimum Bill (“MMB”) recovers customer and distribution costs applied after riders but before GAF, any non-bypassable charges, or excess energy credit. The MMB would be \$30 to ensure recovery of customer and distribution costs from solar choice

customers. The \$30 MMB is reduced by the Basic Facilities Charge (BFC) and the portion of the customer's monthly volumetric energy charges specific to customer and distribution costs. If the combination of the BFC, specific volumetric energy charges, and bypassable riders is less than \$30, then the MMB charge is equal to the difference. Any avoided cost bill credits for net excess energy can be used to reduce a customer's bill after the MMB has been applied.

- BFC of \$13.09 for DEC and \$14.63 for DEP and will change in accordance with any future changes in the BFC for the residential TOU rate schedules. The Parties are not limited in their ability to litigate issues related to the amount or calculation of the BFC.
- Monthly excess net exports are credited at an annualized rate (weighted average rate for all hours assuming a fixed block of energy) for avoided energy cost as specified by the per kWh rates and charges in Schedule PP - Purchased Power (DEC) and SC Schedule PP – Purchased Power (DEP).
 - The Companies will maintain the fixed block of energy methodology that is used in Rider RNM but reserves the right to use a solar energy profile instead.
 - The Companies will maintain the practice of using an annualized rate but reserve the right to use different rates for each month instead.
- All costs related to Demand Side Management (“DSM”)/EE, storm cost recovery, and cyber security are non-bypassable with the option of proposing new components to the non-bypassable list of charges with no direct link to customer kWh usage. Inclusion of additional possible Solar Choice Program costs would be handled in separate proceedings and rate cases.
 - Unless the Commission requires production meters to measure the actual solar production at each location, non-bypassable cost recovery would be a monthly non-volumetric charge based on customer-generator system capacity with a modeled annual capacity factor representing the system's entire output.
- Imports and exports will be netted within each TOU pricing period initially, and net exports during that pricing period are credited at avoided cost as explained above. CPP applies to all imports during the CPP hours. Any energy exports during the CPP hours will be netted against peak imports, not the Critical Peak imports
- Renewable energy certificate (“RECs”) for all solar generation will be transferred to the Companies upon being placed on the rate for the length of time the customer enrolls in a Permanent Solar Choice Tariff.
- The designation of critical peak pricing days and hours will be set daily and will be posted daily on the Companies' website as the official customer notification. Additionally, the designation of CPP will be communicated to Customers by other means, including but not limited to email if desired and optionally through text message, again as desired by such Customers.

- The Companies could shift the CPP hours (but not the TOU hours) by 1 hour if it becomes necessary to avoid snap-back. The total number of CPP hours per day would remain the same regardless of any shift.
 - The peak hours would be used to provide flexibility for system operations.
- The Companies will maintain the TOU hours as defined above for enrolled customers (re: peak/off-peak/super-off-peak) for at least 10 years.
- The Companies will keep the general rate structure consisting of volumetric time varying rates and no demand charges described in this Permanent Solar Choice Tariff open to customers for at least 10 years.
- The Companies will develop an online savings calculator that will be shared and previewed with the settling parties for feedback within two years of the Permanent Solar Choice Tariff's implementation.

Non-Residential Customer Generators

- Non-residential customer generators applying for interconnection after June 1, 2021, will be served under their existing tariff and the Solar Choice Program rider, which will include monthly netting of excess energy.
- Monthly net excess energy will be applied as a bill credit at the same rate as residential customer generators. At the Companies' discretion, non-residential customer generators with systems less than 30 kW may be transitioned to a mandatory TOU rate and, prior to filing, Duke would work with interested stakeholders to develop a plan for this transition.

Exhibit CProposed Resolution
The Incentives

- The Companies will offer a cumulative \$0.39/Watt-dc incentive for new NEM customers eligible for rate schedule RE under the Solar Choice Program. The upfront rooftop solar incentive is \$0.36/Watt-dc (the “Rooftop Incentive”) and may be assigned to a solar leasing company if the customer is in a lease arrangement. In order to be eligible for the Rooftop Incentive, the customer must also participate in a winter smart thermostat program (“Winter BYOT”) and will be compensated for its participation in accordance with the Winter BYOT program rules (the “Winter BYOT Incentive”). The proposed Winter BYOT Incentive provides an initial one-time bill credit of \$75, and after 12 months of participation, customers receive an additional annual bill credit of \$25. Together, these two programs comprise the cumulative \$0.39/Watt-dc incentive mentioned above.
- If a customer overrides more than the Winter BYOT program allows, they must pay back a prorated share of the Rooftop Incentive for every year that allowance is exceeded (total incentive divided by 25 years).
 - If a customer unenrolls in the Winter BYOT program, the customer must pay a prorated portion of the Rooftop Incentive back to the Companies.
- Customers not willing or able to install a qualified smart thermostat enrolled in a Winter BYOT program are not eligible for the Rooftop Incentive.
- Customers must sign a contractual agreement to remain enrolled in the Companies’ Winter BYOT program for 25 years. There will be no penalty if customers move out of the residence before the expiration of this provision.
- Solar Choice Program customers will be provided a 25-year contract with grandfathering tied to the system for the incentive and other components of the Solar Choice Tariff structure including monthly netting, TOU-CPP (though time windows may change after 10 years), and no demand charges.
- To ensure broad technology inclusion, the Companies will work with stakeholders to identify other peak load reduction technologies that can be paired with solar in addition to a Winter BYOT enrolled thermostat. The minimum qualification is that the technology must lead to a reliable reduction of at least ~1 kW per hour during peak winter hours. The Companies are to file such a program by June 1, 2022.
- System performance metrics for the Incentives will be determined at a later date.
- Both the Rooftop Incentive and Winter BYOT Incentive must be approved by both the PSCSC and the NCUC in order to be offered by the Companies. DSM/energy efficiency

programs costs are allocated across both jurisdictions in order for the program to be cost effective under traditional tests. Thus, the Incentives will not be available in South Carolina until both PSCSC and the NCUC approve.

- The Parties agree that in order to address potential changes in market conditions that may negatively impact free-ridership and program cost effectiveness, the Companies may adjust programmatic incentive levels. Such incentive adjustments may occur no earlier than January 1, 2024.
- The Parties agree that the CPP TOU tariff structure will be effective January 1, 2022 whether the Incentives are approved by that time or not.
- The Parties understand that the Companies' "basic" option is the TOU rate, and the Incentives are an overlay to that rate. If the Incentives, as contemplated in this MOU, do not receive approval from both the PSCSC and the NCUC, the TOU rate structure will remain in effect as the basic option.

The Parties would vigorously advocate in North Carolina and South Carolina for approval of the incentives described above as well as full lost revenue recovery and shared savings incentives that are part of the EE program. The Parties would vigorously advocate for the TOU rate as a combined offering which complies with Act 62, and would work in good faith to ensure that the details of the combined offering submitted to the PSCSC and the NCUC complies with the requirements of Act 62 and supportive of advancement of these options in accordance with North Carolina law. Furthermore, the Parties recognize that their support of the proposed resolution is based on the interlocking components of the entire proposal and that if the PSCSC or the NCUC rejects any one aspect of the proposed resolution, then it may require renegotiation of other aspects of the proposed resolution. The Parties would work in good faith to negotiate any changes that may be necessitated by a rejection or amendment by the PSCSC or the NCUC of any material aspect of the proposed resolution.

Exhibit D

Joinder Agreement

JOINDER AGREEMENT

The undersigned, _____ (the “Joining Party”), hereby acknowledges receipt and an opportunity to review that certain Memorandum of Understanding entered into by and among Duke Energy Carolinas, LLC; Duke Energy Progress, LLC; North Carolina Sustainable Energy Association; Southern Environmental Law Center on behalf of South Carolina Coastal Conservation League, Southern Alliance for Clean Energy, and Upstate Forever; Sunrun Inc.; and Vote Solar dated _____ 2020 (the “MOU”). The undersigned further agrees to be bound by the terms of the MOU in accordance with its terms in consideration for the non-binding understandings and binding agreements set forth therein. As such, the Joining Party shall be considered a “Party” under the MOU.

This Joinder Agreement is made effective this __ day of _____, 2020.

By: _____

ACKNOWLEDGED AND AGREED:

DUKE ENERGY CAROLINAS, LLC

By: _____
Name:
Title:

DUKE ENERGY PROGRESS, LLC

By: _____
Name:
Title:

JOINDER AGREEMENT

The undersigned, Solar Energy Industries Association (the “Joining Party”), hereby acknowledges receipt and an opportunity to review that certain Memorandum of Understanding entered into by and among Duke Energy Carolinas, LLC; Duke Energy Progress, LLC; North Carolina Sustainable Energy Association; Southern Environmental Law Center on behalf of South Carolina Coastal Conservation League, Southern Alliance for Clean Energy, and Upstate Forever; Sunrun Inc.; and Vote Solar dated September 16, 2020 (the “MOU”). The undersigned further agrees to be bound by the terms of the MOU in accordance with its terms in consideration for the non-binding understandings and binding agreements set forth therein. As such, the Joining Party shall be considered a “Party” under the MOU.

This Joinder Agreement is made effective this 2nd day of December, 2020.

SOLAR ENERGY INDUSTRIES ASSOCIATION

By: 

Name: Sean Gallagher

Title: VP, State Affairs

ACKNOWLEDGED AND AGREED:

DUKE ENERGY CAROLINAS, LLC

By: _____

Name: Heather Shirley Smith

Title: Deputy General Counsel

DUKE ENERGY PROGRESS, LLC

By: _____

Name: Heather Shirley Smith

Title: Deputy General Counsel